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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/332,423 10/31/94 MCMASTER

H GLT1463R

EXAMINER
GRIFFIN, S

D3M1/0720

ART UNIT PAPER NUMBER

35

1303

DATE MAILED: 07/20/95

EARL J LAFONTAINE
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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-17 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 18-25 have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-17 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

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Part III DETAILED ACTION

Response to Amendment

1. The amendment of claim 17 filed 3-2-95 has not been entered because it does not comply with 37 C.F.R. § 1.121(e), which sets forth the manner of amending claims in reissue applications. It is noted that even though claim 17 has not been entered it is being considered for the purposes of this Office Action as though it has been correctly amended and subsequently entered.

2. The amendment of claim 17 has not been entered as it entirely rewrites additional claim 17 whereas claim 17 should be amended only by specifying the words to be deleted or added and the precise point of such deletion or insertion (see below). It is suggested that in the next amendment that claim 17 be cancelled and it be written, with any additional amendments, as a totally new claim having the next available claim number. Also note that any subsequent amendment to the specification and/or claims must comply with 37 C.F.R. § 1.121(e).

37 CFR 1.121. Manner of making amendments.

(e) In reissue applications, both the descriptive portion and the claims are to be amended by either (1) submitting a copy of a portion of the description or an entire claim with all matter to be deleted from the patent being placed between brackets and all matter to be added to the patent being underlined, or (2) indicating the exact word or words to be stricken out or inserted and the precise point where the deletion or insertion is to be made. Any word or words to be inserted must be underlined. See 1.173.

See also MPEP § 1453 which states:

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AMENDMENT OR CANCELLATION OF ADDITIONAL CLAIMS

Any amendments to additional claims presented in the reissue application should be amended only by specifying the words to be deleted or added and the precise point of such deletion or insertion. Likewise, any cancellation of additional claims should be made by specifying the number of the claim or claims to be canceled. Such amendments will be entered by the clerical staff within the Patent and Trademark Office.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

4. The drawings are objected to because they do not include certain reference signs mentioned in the description. 37 CFR § 1.84(f) states, "Reference signs not mentioned in the description shall not appear in the drawing and vice versa." The following reference signs are not included in the drawings: "16'", "17", and "50". Correction is required.

5. Applicant is required to submit a proposed drawing correction in response to this Office Action. Any proposal by the applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the Draftsman in accordance with MPEP § 608.02(r); and

b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP § 608.02(v).

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IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and *may not be deferred*.

Specification

6. The disclosure is objected to because of the following informalities: Column 4, line 18, it is believed that "3" should be --5--. Appropriate correction is required.

7. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as the specification, as originally filed, does not provide support for the invention as is now claimed.

Claim 17 has no support for moving or changing the position or surface of the quench tubes so as to conform to the glass sheet which is intended to be tempered. The glass sheet is either tempered in the flat condition as received, and thus there are no means as specified in claim 17, or the flat sheet is bent

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using the disclosed apparatus prior to tempering. The sheet must be received by the apparatus in a flat, heated condition for bending prior to tempering of the bent glass sheet in place, i.e. bending is essential for enabling tempering with the apparatus when the platens are in a deformed state.

Claim Rejections - 35 USC § 112

8. Claim 17 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

9. Claims 1-17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 13, claim 15, line 13, and claim 16, line 13, "opposing the first platen" is not clear as to what is opposing the first platen is it the "second platen" or the "quench openings" or both. □

Claim 2, line 2, it is suggested that --actuator-- be inserted before "devices". Claim 2, line 4, "the proper distance" lacks antecedent basis.

See claim 3 which refers to act. dev. □

Claim 4, line 1, "the speed of the actuator" lacks antecedent basis. □

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Claim 6, line 2, "the opposed bending platens" lacks antecedent basis. Claim 6, line 5, "the lower bending platen" lacks antecedent basis.

Claim 6, line 4, claim 9, lines 2-3 and 4-5, claim 15, line 26, and claim 16, lines 20-21 and 35, "said upper platen" lacks antecedent basis.

Claim 6, lines 6-7, 9, and 10, claim 7, lines 1-2 and 6, claim 15, line 23, and claim 16, line 31, "the lower platen" lacks antecedent basis.

Claim 6, lines 7-8, claim 8, lines 1-2 and 5, claim 9, lines 1-2, claim 15, lines 29-30, and claim 16, lines 38-39, "the upper platen" lacks antecedent basis.

Claim 6, line 12, claim 15, line 19, and claim 16, line 27, "said lower platen" lacks antecedent basis.

Claim 7, lines 8-9, claim 11, line 3, claim 15, line 25, and claim 16, lines 33-34; "the bending and quenching" lacks antecedent basis as there is no basis for quenching.

Claim 9, line 6, "said template" lacks antecedent basis.

Claim 10, lines 1-2, "a source of quenching gas" is indefinite as it is not clear if this is in addition to the "means for supplying quenching gas" in claim 1 or is it referring to the same element.

Claim 12, line 1, "said means" is unclear what means it is referring to. Claim 12, line 3, "the" should be deleted.

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Claim 13, line 3, "contact" is unclear as it is not clear what the platens are contacting. ?

Claim 14, line 3, "said platen" is not clear what platen it refers to. Claim 14, line 4, "quenched" should be --tempered--.
Claim 14, line 5, "therebetween" is unclear what it is referring to as "platen" in line 1 is singular rather than plural. ✓

Claim 15, line 21, "platen" is unclear what platen it is referring to. ✓

Claim 17, it is not clear where the glass sheet is located so it is not clear how the tubes conform to it. Claim 17, lines 4-5, "said movable quench tubes" lack antecedent basis.
Claim 17, line 5, "the glass sheets" lacks antecedent basis as it refers to plural sheets. Claim 17, line 7, "glass sheet therebetween" is indefinite as it is not clear the sheet is between something. ✓

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled

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the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

11. Claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by Reunamaki et al 4,881,962 (Reunamaki '962).

Reunamaki '962 discloses an apparatus for bending and tempering glass sheets comprising a first platen (see the lower portion of the bending and tempering section (3) shown in Figs. 3-6) which receives glass sheets, includes actuator means which lifts portions of the first platen a specific distance to deform the platen, and has quench openings in nozzles (13a) which form a part of the first platen and are movable with the deformation of the first platen, Reunamaki '962 also discloses the apparatus as having a second platen (see the upper portion of the bending and tempering section (3) shown in Figs. 3-6) with quench openings in nozzles (13) and a means for supplying quench gas to the first and second quench openings.

12. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Bocelli et al 4,540,425 (Bocelli '425).

Bocelli '425 discloses an apparatus for bending glass sheets comprising a first platen (see the lower portion of the apparatus in Figs. 1-3) which receives glass sheets, includes actuator means which moves portions of the first platen a specific distance to deform the platen, and has openings in nozzles (17) which form a part of the first platen and are movable with the

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deformation of the first platen, Bocelli '425 also discloses the apparatus as having a second platen (see the upper portion of the apparatus in Figs. 3-6) with nozzles (18) and a means (23, 24) for supplying quench gas to the first and second quench openings.

13. Claim 17 is rejected under 35 U.S.C. § 102(b) as being anticipated by Cheron '752.

Cheron '752 discloses an apparatus for tempering glass comprising upper and lower quench tubes (13, 21), means (see col. 5, line 30 - col. 6, line 39, and Fig. 11) for moving the quench tubes to conform to the glass sheet, means (2, 3) for engaging the glass sheets and means (20, 11) for supplying quench gas to temper the glass sheets.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same

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person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

15. Claim 6 is rejected under 35 U.S.C. § 103 as being unpatentable over Bocelli '425.

Bocelli '425 disclose a template (8 or 9) which is mounted so when the platens deform they contact the template which controls the curvature of the platens and thus the curvature of the glass. It is noted that the template in Bocelli '425 is located below the first platen (see the lower portion of the apparatus in Figs. 1-3) whereas claim 6 claims the template above the upper platen but it is considered that it would have been obvious to one of ordinary skill in the art the locating the template of Bocelli '425 above the platens and thus deforming the platens of Bocelli '425 to contact this template would have been an obvious modification in the location of a known part in order to provide for a way of controlling the shape of the curvature of the glass sheet.

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Reissue Oath/Declaration

16. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5).

The reissue declaration fails to particularly specify every error relied upon, every departure from the original patent represents an "error" in the original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in either the original or a supplemental oath or declaration under 37 CFR 1.175. The declaration should refer to every departure from the original patent, for example the changes to claim 1 and specify the error relied upon.

17. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors and/or how the errors relied upon arose or occurred as required under 37 CFR 1.175(a)(5). Included are inadvertent errors in conduct, i.e., actions taken by the applicant, the attorney or others, before the original patent issued, which are alleged to be the cause of the actual errors in the patent. This includes how and when the errors in conduct arose or occurred, as well as how and when these errors were discovered. Applicant's attention is directed to *Hewlett-Packard v. Bausch & Lomb*, 11 USPQ2d 1750, 1758 (Fed. Cir. 1989). The declaration should specifically refer to every error in the patent and explain how the errors

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arose or occurred, for example, the declaration should refer to "two step" (and all the other errors) and provide a specific explanation of how this error arose.

18. The reissue oath or declaration filed with this application is defective because it fails to comply with the requirement of 37 C.F.R. § 1.63, as required under 37 C.F.R. § 1.175(a). The declaration fails to state that they "have reviewed and understand..." and that they "acknowledges to duty to disclose..." in addition to meeting the other requirements of § 1.63.

19. Claims 1-17 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

Every departure from the original patent represents an "error" in the original patent under 35 U.S.C. 251 and must be particularly and distinctly specified and supported in either the original or a supplemental oath or declaration under 37 CFR 1.175. Any subsequent changes in the specification or claims require an updated supplemental oath or declaration specifically directed to and supporting these changes. As set forth in the first Office action and the previous Office actions, the reissue oath or declaration must particularly specify (1) the excess or insufficiency in the claims and (2) how the reissue overcomes the defect in the original patent, e.g. describe how the newly

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presented or amended claims differ from those of the original patent. The reissue declarations of record do not address, in the above manner, the changes to patent claims 1, 15, and 16, and new claim 17 as presented in the amendment filed 3-2-95. The reissue declarations of record do not point out very specifically what the defects are and how and when the errors arose, and how and when errors were discovered. Further, as set forth in the first Office action, failure to omit a limitation is not "error", where the claims can only be enabled with the limitation present. The disclosed apparatus is for bending the flat glass sheet followed by tempering of the bent glass sheet. The sheet must be received by the apparatus in a flat, heated condition for bending by changing the contour of the platens prior to tempering of the bent glass sheet in place, i.e. bending is essential for enabling tempering of a bent glass sheet with the platens contoured according to the bending step. Claims directed to an invention different from that of the patent are not proper for the filing of a reissue application; see MPEP 1412.01 and 1450, and pages 15 and 16 of the first Office action. Claim 17 is not directed to the bending and tempering apparatus of the patent claims. Applicant is trying to now add different inventions to the patent by way of reissue which is totally inappropriate. These claims are rejected under 35 USC 251 as not being directed to error and not being for the invention in the original patent.

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20. Note the declarations must provide the residence and post office address of each inventor.

Terminal Disclaimer

21. The terminal disclaimer filed on 10-31-95 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 4,822,398 has been reviewed and is accepted. The terminal disclaimer has been recorded. The obviousness-type double patenting rejection in Paper No. 25 is withdrawn.

Information Disclosure Statement

22. The U.S. Patents (and the Webster's citation) listed on the enclosed PTO-1449 which are lined through have been lined through as they have been previously considered and are listed on PTO-892's already of record in the application.

23. The information disclosure statement filed 10-31-94 fails to comply with 37 CFR § 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language (i.e. Finland '313, German '451, and Europe '892). The Finland, German, and European reference have been placed in the application file, but

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the information referred to therein has not been considered as to the merits.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Griffin whose telephone number is (703) 308-1164. The examiner can normally be reached on Monday-Thursday from 6:30 AM-4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703) 308-3535. The fax phone number for this Group is (703) 305-3601.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number (703) 308-0651.



DAVID L. LACEY
SUPERVISORY PATENT EXAMINER
GROUP 180-1300

7/17/95

SPG *S. Griffin*
July 17, 1995